

29348. Misbranding of chocolate-flavored malted products. U. S. v. 259 Jars, 306 Jars, and 54 Tins of Chocolate-Flavored Malted Products. Default decree of condemnation and destruction. (F. & D. No. 42993. Sample Nos. 12036-D, 12037-D, 12038-D.)

These products were short of the declared weight. The product contained in the jars had not been subjected to the enzymic action of malt and therefore was not entitled to the name "malted."

On July 1, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 259 jars, 306 jars, and 54 tins of chocolate-flavored malted products at West New York, N. J.; alleging that the articles had been shipped in interstate commerce on or about May 19 and June 7, 1938, by Gudy-Gudy Products Co., Inc. (from Brooklyn, N. Y.); and charging misbranding in violation of the Food and Drugs Act as amended. The articles were labeled variously: "Larry's Certified Cho-Co-Malted * * * Gudy-Gudy Products Co., Inc."; "Larry's Improved Cho-Co-Malted * * * Larry's Pure Food Products Inc."; "Chocolate Flavored Malt Gudy-Gudy * * * Gudy-Gudy Prod. Co."

They were alleged to be misbranded in that the statements "Contents 20 Oz. Avd. [or "16 Ozs. Avd." or "16 Ozs. Net"]," borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to articles that were short weight; and in that they were food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct and was not declared in terms of the largest unit. The product contained in the jars was alleged to be misbranded further in that the statement "Malted" was false and misleading and tended to deceive and mislead the purchaser when applied to articles which had not been subjected to the enzymic action of malt.

On August 9, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29349. Adulteration and misbranding of Nebusol and Gly-Ketol. U. S. v. 70 Gallons and 250 Pounds of Nebusol (and 1 similar seizure action). Default decrees of condemnation and destruction. (F. & D. Nos. 41139, 41140, 41263. Sample Nos. 47599-C, 49560-C, 49561-C.)

These products consisted of a glycol or a glycol ether, or both, poisons.

On December 16 and 21, 1937, the United States attorneys for the Northern District of Illinois and the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 70 gallons and 250 pounds of Nebusol and 50 gallons of Gly-Ketol in various lots at Chicago, Ill., and Cincinnati, Ohio; alleging that the articles had been shipped in interstate commerce on October 22 and 29, and December 8, 1937, from New York, N. Y., by Fries Bros.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled variously: "Neumann-Buslee & Wolfe Inc. * * * Chicago Ill * * * Nebusol [or "Nebusol VC Type"]"; "Gly-Ketol * * * Fries Bros. N. Y."

They were alleged to be adulterated in that a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for food-flavor solvents, which they purported to be.

Misbranding was alleged in that the statements on the several labels, "Nebusol," "Nebusol VC Type," and "Gly-Ketol," were false and misleading and tended to deceive and mislead the purchaser as applied to poisons unfit for use as food-flavor solvents; and in that they were sold under the distinctive names of other articles, namely, food-flavor solvents.

On March 16 and 18, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29350. Adulteration of canned crab meat. U. S. v. 419 Cases and 90 Cases of Canned Crab Meat. Consent decree of condemnation. Product released under bond. (F. & D. Nos. 43217, 43218. Sample Nos. 36286-D, 36288-D.)

Samples of this product were found to be decomposed.

On August 5, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in

the district court a libel praying seizure and condemnation of 509 cases of canned crab meat at San Francisco, Calif.; alleging that the article had been packed by the Gulf Packing Co., of Cordova, Alaska, and had been shipped in interstate commerce on or about September 23 and October 11, 16, and 23, 1937, from Seattle, Wash., by American Transfer Co.; and charging adulteration in violation of the Food and Drugs Act. A portion of the article was labeled in part: "Alaskimo Brand Alaska Crab R. M. Gardiner Distributor San Francisco, Calif."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On August 23, 1938, Robert M. Gardiner having appeared as claimant, the court entered findings to the effect that the product had been packed by the Gulf Packing Co.; that it had been shipped by said Gulf Packing Co. from Cordova, Alaska, to San Francisco, Calif.; and that it, or some part thereof, was adulterated as alleged. Judgment of condemnation was entered and the product was ordered released under bond conditioned that it should not be disposed of in violation of the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29351. Misbranding of canned tomatoes. U. S. v. 97 Cases and 47 Cases of Canned Tomatoes. Default decree of condemnation. Product disposed of for charitable purposes. (F. & D. Nos. 41474, 41475. Sample Nos. 2605-D, 2606-D.)

This product fell below the standard established by this Department because it was not normally colored, and because of the presence of excessive peel, and it was not labeled to indicate that it was substandard.

On January 19, 1938, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 97 cases of canned tomatoes at Pauls Valley, Okla., and 47 cases of the product at Ardmore, Okla.; alleging that the article had been shipped in interstate commerce on or about June 16, 1937, from Santa Rosa, Tex., by A. S. Beard Canning Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lone Brand Tomatoes * * * Packed By A. S. Beard Santa Rosa, Texas Roanoke, Va."

It was alleged to be misbranded in that it was not normally colored and the fruit was not peeled, since there was present more than 3 square inches of peel per pound of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On June 3, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered disposed of for charitable purposes.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29352. Misbranding of canned cherries. U. S. v. 24 Cases of Red Pitted Cherries. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 43012. Sample No. 27507-D.)

This product was substandard because it was packed in water, and it was not labeled to indicate that it was substandard.

On July 15, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases of canned cherries at Sheridan, Wyo.; alleging that the article had been shipped in interstate commerce on or about April 12, 1938, from Red Lodge, Mont., by Red Lodge Canning Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Ravalli * * * Red Pitted Cherries * * * Packed by Red Lodge Canning Co."

It was alleged to be misbranded in that it fell below the standard of quality, condition, and fill of container promulgated by the Secretary of Agriculture for such canned food and none of its packages and labels bore a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On August 4, 1938, Red Lodge Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*